The Examiner's comments regarding the drawings are noted. Any necessary revision to the Brief Description of the Drawings will be made upon submission of the formal drawings.

Claims 21 and 22 stand rejected under 35 U.S.C. §112, first paragraph. As noted above, these claims have been canceled thus mooting the rejection.

Claims 8-12, 14-19 and 21-25 stand rejected under 35 U.S.C. §112, first paragraph, as allegedly being non-enabled. Withdrawal of the rejection is submitted to be in order for the reasons that follow.

In rejecting the claims as non-enabled, the Examiner contends that in vitro and animal model studies have not correlated well with in vivo clinical trials in patents. This remarkably broad assertion is made without reference to any supporting evidence. Applicants respectfully request that they be advised of any evidence of lack of correlation between in vitro studies and animal studies and having direct relevance to the invention claimed here so that they will be in a position to respond.

The Examiner appears to contend that the claims should be limited to monocytic cells and further the Examiner appears to suggest that the claimed methods are not viable absent complete inhibition. Basis for the Examiner's

position is not understood and clarification is requested so that Applicants will be appropriately placed to respond. Surely, the Examiner is not contending that the methods must be 100% effective to meet the standards of 35 U.S.C. §112. As the Examiner is aware, many if not most therapeutic approaches do not meet the standard.

The Examiner also contends that Applicants have not provided convincing evidence that the invention would be therapeutically effective. The Examiner's comment overlooks the fact that a patent applicant enjoys the presumption that the invention can be practiced as claimed. The burden is on the examiner to provide evidence or reasoning inconsistent with the disclosure as to why such would not be the case. The sweeping assertions made by the Examiner here do not constitute such evidence or reasoning.

The Examiner's comments relating to claims 21 and 22 are mooted by the above-noted cancellation of those claims.

On page 4 of the Action, the Examiner cites a variety of references in support of his assertion that HIV infections have been refractory to anti-viral therapies. While these comments might be supportive of a rejection under 35 U.S.C. §101, based on lack of utility, that is not the rejection made here. Indeed,

in not rejecting the claims under 35 USC §101, the Examiner acknowledges the credibility of the claimed methods. Having made that acknowledgment, a rejection under 35 U.S.C. §112, first paragraph, on the basis that the disclosure does not teach how to use the invention is wholly inappropriate.

At the bottom of page 5 of the Action, the Examiner makes reference to Ueno et al. (U.S. Patent No. 4,840,941). This patent claims a method of inhibiting infection of human T-cells by a human retrovirus. The Examiner is urged to take note of the scope of the patent claims and the fact that the Examples are based on cultured cells - not animal models. It is submitted that the position taken by the Examiner here stands in marked contrast to that taken in Ueno et al.

At the top of page 6 of the Action, the Examiner contends that Applicants' assertions of record have not appeared consistent with Applicants' own observations. The basis for the Examiner's comment is not understood and clarification is respectfully requested so that Applicants can dispel any perceived inconsistency.

In view of the above, the Examiner is urged to reconsider his position. It is believed that having done so, the Examiner will find withdrawal of the rejection to be in order.

Claims 8-12, 14-19 and 21-25 stand rejected under 35 U.S.C. §112, first paragraph. Withdrawal of the rejection is submitted to be in order for the reasons that follow.

The Examiner's concerns expressed in item (A) appear to be based on the recitation of reverse transcriptase inhibitors in dependent claims 21 and 22. Those claims have now been canceled. Accordingly, basis for the Examiner's concerns are believed to have been mooted.

As for item (B), the Examiner is reminded that the present claims are method claims not product claims. Accordingly, the functional description of the agent is entirely appropriate. As the Examiner is aware, it is proper that method claims encompass the use of agents not known at the time of filng, much less disclosed.

The Examiner's assertion that the claims cover a significant number of inoperative species is submitted to be in error as the language of the claims avoids such species.

Reconsideration is requested.

Claims 21 and 22 stand rejected under 35 U.S.C. §112, first and second paragraphs. Cancellation of the claims renders the rejection moot.

In item (10) on page 8 of the Action, the Examiner makes reference to claim 11 and the recitation therein of A1G3. The Examiner notes the availability of A1G3 from the ATCC but appears bothered by the fact that the catalog indicates that the antibodies should not be used for commercial purposes or distributed to third parties. It is respectfully submitted that the antibodies are nonetheless freely available. The Examiner is urged to indicate the authority for his apparent assertion that the catalog "restriction" on commercial use and distribution is inconsistent with the requirements of 35 USC 112, first paragraph.

Claims 10-11 stand rejected under 35 U.S.C. §112, second paragraph. Withdrawal of the rejection is submitted to be in order in view of the above-noted claim revisions and for the reasons that follow.

Claim 10 has been revised as required by the Examiner.

As for A1G3, no revision is believed necessary. The intended antibody is clear from the disclosure. Should the Examiner be aware of an alternative usage of A1G3, he is requested to so indicate.

In view of the above, reconsideration is requested.

Claims 8, 9 and 12 stand rejected under 35 U.S.C. §102(b) as allegedly being anticipated by Ueno et al. Claims 8, 9, 12 and 22 stand rejected under 35

U.S.C. §103 as allegedly being obvious over Ueno et al. in view of the AZT art. Withdrawal of the rejections is submitted to be in order for the reasons that follow.

The rejection of the claims under 35 U.S.C. §102 would appear to be based on that which the Examiner appears to be inherent in the reference. The Examiner is reminded that a rejection based on inherency is appropriate only when a particular result necessarily flows form the reference teachings. The Examiner's own comments indicate that basis for such a rejection would not appear to exist here.

In rejecting the claims as obvious, the Examiner appears to again rely on an alleged inherent teaching. It is now well established that any such teaching cannot form the basis of a rejection based on obviousness.

In view of the above, reconsideration is requested.

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**Serial No. 08/753,851**

Respectfully submitted,

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